

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRENDA JOHNSON,)
Plaintiff,) Case No. 2:12-cv-1230
v.) Judge Terrance F. McVerry
R.R. DONNELLY PRINTING CO.,) Chief Magistrate Judge Lisa Pupo
et al.,) Lenihan
Defendants.) ECF No. 36
)

MEMORANDUM ORDER

Plaintiff commenced this civil action by filing a Motion to Proceed *In Forma Pauperis* which was received by the Clerk of Court on August 27, 2012. The motion was granted and the Clerk then filed the Complaint on August 29, 2012. This case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 43), filed on October 1, 2013, recommended that the Motion to Dismiss (ECF No. 36) filed by Defendants R.R. Donnelley & Sons Co., Amy Bereksazi, Jim Ford, Jake Zoller, Debbie Steinmetz, Cindy Massarelli, Carrie Zdobinski, and Susan Everhart¹ be granted with

¹ Although Plaintiff previously named Andrew Shissler as a defendant, she failed to mention him at all in the second amended complaint and he was terminated as a party on 6/4/13. In addition, the Court previously dismissed with prejudice J.D. (Gerald) Keeler as a defendant for lack of personal jurisdiction. See Mem. Order dated 4/29/13, ECF No. 26. In the second amended complaint, Plaintiff names as Defendants, inter alia, R.R. Donnelley Printing Co., Amy Berezazi, Debbie Steinbeck, Cindy Mazzorelli,

prejudice in part and denied in part. The Report and Recommendation recommended that Defendants' Motion to Dismiss (ECF. No. 36) the claims brought against the individual Defendants be granted with prejudice, and that said motion be denied as to Defendant R.R. Donnelley. The Report and Recommendation further recommended that the Clerk of Court be ordered to docket Plaintiff's proposed third amended complaint (ECF No. 40 at 2 & 3) and the attachments thereto (ECF No. 40-1) attached to her response to the motion to dismiss, with the instruction that the individual defendants are to be stricken from the third amended complaint and terminated as parties in this case. Service was made on all counsel of record and on Plaintiff at 7228 Thomas Blvd., Apt. 1A, Pittsburgh, PA 15208. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. Plaintiff filed Objections to the Report and Recommendation (ECF No. 44) on October 11, 2013, to which Defendants filed a response (ECF No. 45) on October 14, 2013.

After review of the pleadings and documents in the case, together with the Report and Recommendation, objections and response thereto, the following Order is entered:

AND NOW, this 8th day of November, 2013,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 36) filed by Defendants is **GRANTED IN PART AND DENIED IN PART**. The Motion to Dismiss

and Carrie Zobinszi, however, Defendants assert that the correct spelling of their names is Amy Bereksazi, Debbie Steinmetz, Cindy Massarelli, and Carrie Zdobinski, and the proper name of the company is "R.R. Donnelley & Sons Co."

(ECF No. 36) is **GRANTED** as to the individual Defendants and the Second Amended Complaint is **DISMISSED WITH PREJUDICE** as to Defendants Amy Berekaszi, Jim Ford, Jake Zoller, Debbie Steinmetz, Cindy Massarelli, Carrie Zdobinski, and Susan Everhart. The Motion to Dismiss (ECF No. 36) is **DENIED** as to Defendant R.R. Donnelley.

IT IS FURTHER ORDERED that the Clerk of Court shall docket as Plaintiff's Third Amended Complaint the proposed third amended complaint filed at ECF No. 40, pages 2 and 3 and the attachments thereto (ECF No. 40-1).

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 43) of Chief Magistrate Judge Lenihan dated October 1, 2013, is adopted as the opinion of the Court.

BY THE COURT:

s/ Terrence F. McVerry
TERRANCE F. McVERRY
United States District Judge

cc: All Counsel of Record
Via Electronic Mail

Brenda Johnson
7228 Thomas Blvd., Apt. 1A,
Pittsburgh, PA 15208
Via First Class U.S. Mail